

Modification and Reissuance of the KPDES Coal General Permit

The KPDES Coal General Permit expired December 31, 2001, during the calendar year of 2002 the Division of Water developed and public notice twice a draft for reissuance. After responding to comments the permit was issued with an effective date of January 1, 2003. Once the permit began effective it became apparent that the coal industry had difficulty with a number of the conditions contained in the reissued permit. As a result of numerous inquiries the Division of Water determined that the KPDES Coal General Permit should be reopened to receive comments regarding the new conditions. Beginning in February 2003 the permit was republic noticed and comments received, the comment period ended with the closing of the record on the March 27, 2003 public hearing on the permit. From that date until the present the Division of Water and representatives of the coal industry negotiated changes to the permit. The following is a summary of the changes, which appear in the draft that has been public noticed.

Oil & Grease

The following language and requirements have been added:

The permittee shall be subject to the limits and monitoring requirements for this parameter, specified in Pages I-1, I-2, I-3, I-4, and I-5 of this Permit, unless the permittee has submitted either a certification that either the company wide generic Coal Best Management Practices (BMP) Plan has been adopted and implemented or has developed and implemented a site specific BMP Plan for the operation. Failure of the either BMP Plan may result in the permittee being required to comply with the limits and monitoring requirements.

Within ninety (90) days of the effective date of this permit all permittees shall submit a Best Management Practices (BMP) Plan Certification for the operations for which have been granted general permit coverage prior to the effective date of this permit.

The Division of Water has developed two templates to be used by the coal industry to assist in complying with these conditions. The first template is for the development of either a company wide generic BMP Plan or a site specific BMP Plan. The second template is a BMP Plan Certification to be used for operations currently covered by the general permit to demonstrate compliance.

Compliance Monitoring Points

In the previous permit this language included reference to the DSMRE permit. It has been determined that the permitting and bonding requirements of the DSMRE permit do not impact the location of the monitoring point. Therefore that language has been removed and replaced with the following:

Samples taken in compliance with the monitoring requirements specified in this permit shall be taken at the following location: at nearest accessible point after final treatment, but prior to actual discharge to or mixing with the receiving waters. Should this point be an in-stream treatment facility, the overflow from that facility shall be the compliance point provided it has the requisite 404 Permit. If the structure does not have a 404 Permit, then the discharge into the structure is the compliance point. In the case of hollow fills and similar structures, the stream reach between the toe of the fill and the sediment structure remains waters of the United States, unless the area is covered by a 404 Permit, therefore the compliance point is immediately below the toe of the fill.

Application, Modification, Termination, and Transfer Requirements

Due to logistical problems with the previous NOI requirements the following elements will comprise the NOI requirements for the general permit.

Application for a new coverage under this general permit shall take the form of a Notice of Intent (NOI), which will consist of the following elements:

- a. A completed KPDES FORM NOI-CM and attachments.
- b. A full size color USGS 7½-minute quadrangle map with the facility site clearly marked.
- c. Copies of the Mining and Reclamation Map and Environmental Resources Map.
- d. At least three completed Stream Characteristics Data Sheet for each impacted receiving water in the mine area with accompanying photographs.

The Notice of Intent (NOI) is to be submitted to the Division of Water at the same time as the preliminary application is filed with the Department for Surface Mining Reclamation and Enforcement. Should changes in the proposed activity occur then a revised NOI will be required.

This format for submitting applications for coverage (Notice of Intent (NOI)) under this permit shall commence the effective date of this permit; the current format will be used until that time.

The revised NOI template, includes the Stream Characteristics Data Sheet, and the new templates for the BMP Plan development and the BMP Plan Certification are available from the Division of Water's web site at <http://water.nr.state.ky.us/dow/descrip.html>.